

REMARKS

Claims 1, 2, 4-11, and 13-15 have been rejected under 35 U.S.C. § 103 as being obvious over either the Beldham or Japanese '292 patents in view of either the Belgium '373 or Burrows patents. Claims 3 and 12 have been rejected under § 103 based upon the same combinations in further view of the UK '837 patent. Applicant respectfully traverses these rejections, and request reconsideration of the claims.

The Belgium and Burrow Patents are Nonanalogous Art

First, the secondary references of the Belgium and Burrows patents are nonanalogous art, and thus are improper to cite in a rejection of the claims. More particularly, the determination that a reference is nonanalogous is a two-step test: 1) is the reference within the field of the inventor's endeavor? If not, 2) is the reference reasonably pertinent to the particular problem with which the inventor was involved?

Here, the field of endeavor is clothes washing machines. Neither the Belgium nor Burrows patents relate to clothes washing machines. The Belgium patent is related to a public soap dispenser, presumably in a public restroom or the like. The Burrows patent relates to a water vending machine. Thus, neither the Burrows nor Belgium patents relate to a clothes washing machine, and therefore fail the first prong of the nonanalogous art test.

Under the second prong of the test, the problem addressed by the inventors of the present application was providing detergent for washing clothes at a laundromat, as discussed in paragraphs 1 and 2 of the Background of the Invention. More particularly, the current invention addresses the problem of providing a washing machine with a bulk detergent container so that a user may purchase a desired amount of detergent when using the washing machine. The Burrows water vending machine clearly has nothing to do with this problem. The Belgium patent is

related to the problem of wasting soap in a public place, as described in the English Abstract. Applicant does not have a translation of the Belgium patent. Soap waste is not the problem addressed by the present invention. Thus, the Belgium patent is not reasonably pertinent to the problem addressed by the inventor herein. Accordingly, Burrows and Belgium both fail the second prong of the nonanalogous art test.

Accordingly, the Burrows and Belgium patents should both be withdrawn as prior art references, and the § 103 rejections withdrawn.

There is No Clear and Objective Teaching for Combining the Cited References

The Examiner concludes, without any support in the references, that it would be obvious to combine the teachings of the references. However, as the Federal Circuit explained in *In re Fitch*,

Obviousness can not be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under §103, teaching of references can be combined only if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious "modification" of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." (Emphasis added) *In re Fitch*, 23 U.S.P.Q. 1780, 1783-84 (Fed. Cir. 1992).

It was further stated by the Federal Circuit in *Ex Parte Levengood* that:

"...an Examiner cannot establish obviousness by locating references which describe various aspects of a patent applicant's invention without also providing evidence that the motivating force which would compel one skilled in the art to do what the patent applicant has done." *Ex Parte Levengood*, 28 U.S.P.Q.2d 1300, 1302 (Fed. Cir. 1993).

As the Board of Patent Appeals and Interferences has stated, "citing references which merely indicate that isolated elements and/or features recited in claims are known is not

sufficient basis for concluding that the combination of claimed elements would have been obvious." *Ex parte Hiyamizu*, 10 U.S.P.Q.2d 1393, 1394 (B.P.A.I. 1988).

In short, as stated by the Federal Circuit,

"It is wrong to use the patent-in-suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims-in-suit."

Orthopedic Equipment Company v. United States, 702 F.2d 1005, 1012, 217 U.S.P.Q. 193, 199 (Fed. Cir. 1983).

The Federal Circuit has also explained that there must be "some objective teaching" leading to the combination. *In re Fritch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992). As further explained in *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999) this showing must be "clear and particular."

Here, all the Examiner has done is to find references which disclose different aspects of the Applicants' invention. However, the Examiner has provided no clear and particular objective teaching leading to the combination of the primary and secondary references. Therefore, the § 103 rejections are fatally flawed and should be withdrawn.

The Examiner suggests in paragraph 2 that the mere existence of old and well-known coin operated devices for dispensing a selected quantity or volume of a particular product corresponding to the payment or money deposited makes it obvious to modify the Beldham or Japanese '292 patents so as to have the quantity or volume of the selected detergent pumped to the washing machine, in accordance with the payment. Based upon the Examiner's premise, the old and well-known gasoline pumps which require prepayment and then dispense a volume of gasoline corresponding to the payment would also make the suggested modification of Beldham or Japanese '292 patents obvious. The Burrows and Belgium patents are no better prior art than

such well-known gasoline pumps. There is no evidence that a person having ordinary skill in the washing machine or laundromat art would consider gasoline pumps, water vending machines, or restroom soap dispensers for the laundry washing method or washing machine of the present invention. Therefore, the Examiner's § 103 rejection is improper.

Accordingly, Applicants respectfully requests that a Notice of Allowance be issued.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,


KIRK M. HARTUNG, Reg. No. 31,021
McKEE, VOORHEES & SEASE, P.L.C.
801 Grand Avenue, Suite 3200
Des Moines, Iowa 50309-2721
Phone No: (515) 288-3667
Fax No: (515) 288-1338
CUSTOMER NO: 27139

Attorneys of Record

- bja -